IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

(1) S.B. CIVIL WRIT PETITION NO. 657/2005

DINESH KUMAR SAINI & ORS.
Vs.
STATE OF RAJASTHAN & ORS.

DATE: 20.07.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Virendra Lodha for the petitioners.
Mr. B.S. Chhaba, Addl. GA for the State.

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This joint writ petition has been preferred by the petitioners seeking relief from this Court in the following terms:-

> i) by an appropriate writ, order or direction, the Hon”'ble Court may kindly call for the entire record and after examining the same be pleased to declare the impugned action of the official respondents in not fixing the writ petitioners in the pay scale of Rs. 4000-6000 as has been given to their counterparts who are lower in merit and non-determination of seniority of the petitioners in the cadre of LDC against their year of recruitment i.e. 1989-90 for the purpose of providing them seniority in Education Department, null and void and be quashed and set-aside;
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> ii) by further appropriate writ, order or direction, the respondents be directed to give

appointment to the petitioners on the post of LDC vis-a-vis their counterparts have been given appointments and also give pay scale from the date their counterparts had been given;

iii) by further appropriate writ, order or direction, the respondents be directed to give seniority against the vacancy of 1989-90 and other benefits attached to the aforesaid post as has been given to their counterparts;

iv) by further appropriate writ, order or direction, the respondents be directed to fix the salary of the petitioners in the pay scale of Rs. 4000-6000 and further accord promotion on the post of UDC from the date persons lesser in merit have been given promotion on the post of UDC and accord the seniority against the year 1989-90 on the post of LDC as has been given to their counterparts forthwith with all consequential benefits thereto;

v) by further appropriate writ, order or direction on account of re-fixation of the seniority of the petitioners against the vacancy of 1989-90 in the cadre of LDC in their present place of posting in the respective district and in case if the writ petitioners thereupon are eligible for consideration for promotion to the post of UDC in that eventuality also, an appropriate direction be issued for promotion to the post of UDC with all consequential benefits thereto;

vi) by further appropriate writ, order or direction the impugned communication dated 16th December, 2004 (Annexure-2), whereby the Committee decided the representation submitted by the petitioners without assigning any

> reasons and without giving any opportunity of personal hearing to any of the petitioners, may kindly be quashed and set aside;
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> vii) any other prejudicial order detriment to the interest of the petitioners may kindly be taken on record and after examining the same be quashed and set aside."

Learned counsel for the petitioners submits that earlier also a joint writ petition was filed by the petitioners which was registered as S.B. Civil Writ Petition No. 712/2004 and the same was decided by this Court vide order dated 24.03.2004 along with other similar writ petitions, whereby this Court has directed the State Government to constitute permanent Service Matter Grievances Redressal Committees of the government servants, at the stage level of which the Secretary to the Department concerned will be the Chairman, Secretary to the Government Law Department and Nominee of Finance Department not below the rank of Special Secretary will be the Members and Head of the Department will be the Member Secretary. The petitioners were also directed to file a representation in respect of their grievances and relief claimed in the writ petition, to the Chief Secretary Government of Rajasthan, who shall, in turn, place the same before

the Committee and the Committee to decide the same within a period of two months from the date of receipt thereof.

Pursuant to the directions issued by this Court vide order dated 24.03.2004, the respondents have constituted a State Level Committee and the representation submitted by the petitioners was placed before the said Committee and the Committee, so constituted, considered the representation filed by the petitioners in the light of the order passed by this Court and the judgment of the Apex Court in SLP Nos. 8287/1993, 8378/1993, 523/1993 and 13969-70/1993 dated 27.09.1993 and the prevalent rules and record in its meeting held on 06.12.2004 and the decision of the State Level Committee was conveyed to the counsel of the petitioners vide letter dated 16.12.2004 by the Deputy Secretary-III along with a copy of the decision of the State Level Committee.

It is submitted that the Committee has discussed the complete facts and circumstances of the case and considered the judgments of this Court and the Hon'ble Apex Court. It is also contended on behalf of the respondents that if the petitioners are having any grievance, they may file appeal before the Rajasthan Civil Services Appellate Tribunal (for short 'the

Tribunal'), as directed by this Court vide its order dated 24.03.2004. Thus, the preliminary objection with regard to maintainability of the present writ petition also filed and it is not disputed that appointments were given to the petitioners in compliance of the judgment of the Hon'ble Supreme Court and there is no order/direction in the order of the Hon'ble Supreme Court that the appointments are to be given with retrospective effect or their seniority shall be counted from the date of selections by the RPSC and the rules provide that the same shall be counted from the date of confirmation/regularization of services and the benefits have been given accordingly to the petitioners.

Now the matter is required to be examined in view of the relief claimed by the petitioners. The petitioners are seeking relief from this Court directing the respondents to fix the salary of the petitioners in the pay scale of Rs. 4000-6000 as has been given to their counterparts who are lower in merit and to give appointment to the petitioners in the cadre of LDC against the year 1989-90 and assign seniority w.e.f. 1989-90.

As per the directions issued by the Hon'ble Supreme Court and this Court, the Committee has

considered the representation, so submitted by the petitioner and it is not disputed that the petitioners have been considered and given appointments but have not been given the appointments against the year 1989-90 as per the directions issued.

At this stage, I do not want to interfere in such matters as the directions are fully complied with by the respondents in the light of the judgments of the Hon'ble Supreme Court and this Court. I am also fully convinced with the submissions made on behalf of the respondents that if the petitioners are aggrieved by the order passed by the State Level Committee, they may file appeal before the Tribunal.

I am not convinced with the reasons stated in the writ petition and without availing alternative efficacious remedy, the petitioners have filed the present writ petition before this Court. Earlier also the writ petition was filed by the petitioners before this Court directly without first approaching the Tribunal as no adverse order was there, but now the petitioners have got cause of action against the order passed by the State Level Committee, which can be challenged by the petitioners before the Rajasthan Civil Services Appellate Tribunal.

In view of the aforesaid observations, the present writ petition fails not only on the ground of merit but also on the ground of not availing the alternative efficacious remedy, and the same is hereby dismissed.

(K.S. RATHORE),J.

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